



Docket No.: 217812US2

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

RE: Application Serial No.: 10/032,069
Applicants: Kouki ISOZAKI et al.
Filing Date: December 31, 2001
For: HYBRID STEPPING MOTOR
Group Art Unit: 2834
Examiner: NGUYEN, T. N.

SIR:

Attached hereto for filing are the following papers:

PROVISIONAL ELECTION OF SPECIES

Our check in the amount of **-0-** is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

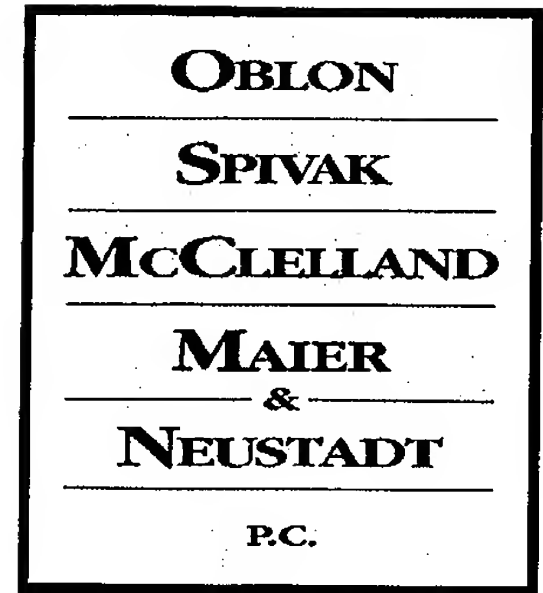
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DOCKET NO.: 217812US2

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF

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KOUKI ISOZAKI ET AL.

: EXAMINER: NGUYEN, T. N.

SERIAL NO: 10/032,069

:

FILED: DECEMBER 31, 2001

: GROUP ART UNIT: 2834

FOR: HYBRID STEPPING MOTOR

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PROVISIONAL ELECTION OF SPECIES

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

In response to the Election of Species requirement dated March 20, 2003, Applicants provisionally elect with traverse Species 1, corresponding to the embodiment of Figures 1-12 and 20-27, and identify Claims 1, 3, and 5 readable on the provisionally elected species.

Applicants respectfully traverse the election requirement for several reasons.

First, the outstanding Official Action merely includes the conclusory statement that "the application contains claims directed to ... patentably distinct species ..." without stating any basis whatsoever in support of such a finding. This is contrary to MPEP §816, which states:

"The particular reasons relied on by the examiner for holding the inventions as claimed are either independent or distinct should be concisely stated. A mere statement of conclusion is inadequate. The reasons upon which the conclusion is based should be given."

In the absence of any annunciated basis, it is respectfully submitted that the PTO clearly has not carried forward its burden of proof to establish distinctness.

Secondly, MPEP § 806.04(f) requires:

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“Claims to be restricted to different species must be mutually exclusive.”

The outstanding Official Action fails to address in any way whether the pending claims recite mutually exclusive characteristics and this failure provides a further basis for traversing the election requirement.

Finally, MPEP § 803 states:

“If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.”

The claims of the present invention would appear to be part of an overlapping search area. That is, searching for prior art relative to a hybrid stepping motor with either a 6-phase 6m-pole inner rotor, a 10-phase 10m-pole inner rotor, a 6-phase 6m-pole outer rotor, and a 10-phase 10m-pole outer rotor would appear to be an overlapping search. Accordingly, Applicants also respectfully traverse the outstanding Election requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the Examiner.

In this particular case, since Applicants are at a loss as to the basis of the Election Requirement, in view of the fact that the Requirement does not state any analysis on how the species were decided, Applicants respectfully request that the requirement be withdrawn, or at the very least, that a new Official Action be mailed stating the basis for the Election Requirement and remedying the deficiencies above-noted, so that Applicants can then appropriately respond on the merits of the requirement. Further support for Applicants' traversal of the election requirement follows:

In the Official Action of March 20, 2003, the Examiner divided the contents of the present application into the following four species.

Species	Figures
1	1-14
2	15-19
3	20-27
4	28-34

Table 1: Proposed Species/Figure Correlation

Applicants submit the four species identified in the pending Official Action is inaccurate given the relationship among the embodiments, specification, and figures disclosed in Applicants' original application, which is summarized in the following two tables.

Embodiment	Contents	Figures
1	6-phase 6-pole inner rotor	1-12
2	6-phase 12-pole inner rotor	13-19
3	10-phase 10-pole inner rotor	20-27
4	10-phase 20-pole inner rotor	28-34
5	Full type outer rotor	none

Table 2: Embodiment/Figure Correlation

Claim	Contents
1	6-phase 6m-pole inner rotor
2	10-phase 10m-pole inner rotor
3	6-phase 6m-pole outer rotor
4	10-phase 10m-pole outer rotor

Table 3: Claim/Embodiment Correlation

Comparing Table 2 with Table 1 shows that proposed Species 1 and 2 do not correspond to the first and second embodiments of the present invention. Table 3 shows that Claim 1 relates to the first (and second) embodiments and Claim 2 relates to the third (and fourth) embodiments.

Furthermore, Claims 3 and 4 correspond to the fifth embodiment for which there is no Figure. Therefore, Claims 3 and 4 are not covered by any of the Examiner's proposed four species. However, Applicants note that a 6-phase 6m-pole outer rotor motor has features similar to a 6-phase 6m-pole inner rotor motor. Therefore, Applicants submit that Claim 3

may be included with Claim 1 when searching the prior art. Similarly, Applicants submit that Claim 4 may be included with Claim 2 when searching the prior art.

In summary, Applicants traverse the pending election requirement for at least the three reasons stated above. However, if an election requirement is still determined to be required, Applicants submit that the proposed four species be replaced by two species as follows: Species 1 - Claims 1, 3, and 5; and Species 2 - Claims 2 and 4.

Respectfully submitted,

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